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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,569	11/19/2001	Alan Anthony Wilson	PG3707USW	3282

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,569

Applicant(s)

WILSON ET AL.

Examiner

Christopher R Harmon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/07/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-41,79 and 80 is/are pending in the application.
- 4a) Of the above claim(s) 26,29-36,79 and 80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4,6-25,27,28 and 37-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/07/05 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 20-21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Providing a blade 0 (zero) mm below the first blade is not below the first blade.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 7-8, 14, 18, 24-25, 27-28, 37-38, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Burns (US 4,481,987).

Burns discloses a method for filling containers with a measured powder comprising providing and closing off perforated plate 16 with first (top) and second (bottom) sides; inclined leveling blade 46 for leveling powder into perforations/grooves 17; blanking plate 36; subsequent leveler blade/wiper 44; see figures 1-3. The bottom side openings of plate 16 are considered closed when conveyor 20 delivers containers to the perforation alignment; thus powder 14 is directed through the first opening into perforations 17 by the sweeping path of leveler 46 and the powder is transferred out of perforations 17 by the second bottom opening into bulk containers 18. Excess powder is directed into container 54.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 9, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns (US 4,481,987).

Burns does not directly disclose a perforation of between 1.5 mm –15 mm; forward acute angle of 5-25 degrees, applying a lid or the powder selected from the group of claim 41. The examiner takes OFFICIAL NOTICE that each of these would have been obvious modifications to one of ordinary skill in the art at the time the

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invention was made. The reagent/medicant disclosed in Burns could have been pushed by a brush at a lower angle if so desired and lidded downstream the dosing step.

8. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns (US 4,481,987) in view of AAPA.

Regarding claims 10-13, the configuration (curved or flat tail section) of the leveler blade was deemed to be an admitted obvious design choice to one of ordinary skill in the art due to the previous failure to traverse the common knowledge modification in the rejection of 2/9/04; see also final rejection of 11/12/04.

9. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns (US 4,481,987) in view of Morris (US 4,850,259).

Burns does not disclose multiple leveler blades at different levels, however Morris teaches a powder dosing apparatus with multiple leveler blades 22 and 23 at separate depths movable across the surface of powder; figures 2-3. It would have been obvious to one of ordinary skill in the art to use the teachings of Morris in the invention to Burns in order to level the powder over the perforated plate.

10. Claims 1-4, 6-18, 22-25, 27-28, 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworak et al. (US 5,549,144) in view of Burns (US 4,481,987).

Dworak et al. disclose a method and apparatus for filling containers with a measured powder comprising closing off perforated plate 52; directing powder by levelers 84a, 84b, 86a, 86b; wiper 88; blanking plate 64; transferor/blanking pin 78; see figures 1 and 2.

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Dworak et al. does not disclose moveable leveler blades presenting a forward acute angle however Burns teaches a powder dosing apparatus with multiple leveler blades 46 and 44 movable across the surface of powder. It would have been obvious to one of ordinary skill in the art to use the teachings of Burns in the invention to Dworak et al. in order to level the powder over the perforated plate.

Response to Arguments

11. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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